

November 22, 2018

Dear Prime Minister Trudeau and Minister Wilson-Raybould,

Avalon Sexual Assault Centre is the only sexual assault centre in Halifax NS. We are a feminist community-based organization committed to sexual assault prevention, intervention, awareness, as well as systemic, societal, and legal change. I am writing you in support for the amendment to Bill C-51 introduced by Senator Kim Pate with regard to the provisions of the *Criminal Code* dealing with incapacity to consent to sexual activity. As a Government who indicates it is pro-feminist and a Prime Minister who identifies as a feminist, I urge you to adopt Senator Pate's amendment. This amendment is based on feminist analysis of sexualized violence and reflective of sexual assault law that clearly defines what legally constitutes sexual assault and consent. The amendment also acknowledges power dynamics and the complex and intersectional factors that often negates one's ability to freely consent.

Avalon Sexual Assault Centre partnered with LEAF Canada to intervene before the NS Court of Appeal in *R. v. Al-Rawi* to offer a feminist perspective regarding the legal issues raised in the appeal. We also highlighted the ways in which discriminatory myths and stereotypes about women have affected judicial decision-making in sexual assault cases. Judge Lenehan's decision based on "clearly a drunk can consent" demonstrates the legal implications of Bill C-51 without Senator Pate's amendments. It is easier to believe that a woman who is so intoxicated that she urinates in her clothes would consent to sex in that same moment than it is believe that someone would commit sexual assault. Currently, Bill C-51 continues to frame sexualized violence from a stereotypical lens that endangers women and girls. By implying the incapacity to consent only exists upon unconsciousness denies the lived reality that many sexual perpetrators prey on women who are intoxicated or lack mental capacity to consent due to mental illness, brain injury, developmental disabilities or dementia and are also less likely to report or be believed. There are many high profile cases in Nova Scotia alone that attest to this.

On a daily bases, Avalon Centre sees the impact of sexualized violence and abuse. Requests for all of our programs and services continue to increase and numbers of clients for all programs are at an all time high. Clients disclose being sexually assaulted while intoxicated, being sexually trafficked, forced into unwanted sexual situations for survival purposes, workplace sexual harassment, as well as racists, homophobic, or transphobic attacks. We work with women who have mental health diagnoses, addictions, brain injuries, or developmental disabilities that are targeted for sexual victimization. These are just some of the examples of sexualized violence and abuse that clearly reflect the proponents of the amendments that Senator Pate proposes:

- (i) unable to understand the nature, circumstances, risks and consequences of the sexual activity in question,
- (ii) unable to understand that they have the choice to engage in the sexual activity in question or not, or
- (iii) unable to affirmatively express agreement to the sexual activity in question by words

or active conduct.

Sexualized violence can only be addressed if we implement and enforce measures that protect potential victims, prevents potential perpetration, and demonstrate by our actions and decisions that we don't excuse or condone it. As a government you have an opportunity to lead this. I urge you to adopt Senator Pate's amendment.

Sincerely

Jackie Stevens
Executive Director